HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 786 of 2007

Between:

Smt. Rachamadugu Kusuma Kumari

… Appellant

And

Chitti Boyina Rama Rao & others

… Respondents

:: J U D G M E N T ::

Counsel for the appellant : Smt. A. Chaya Devi

September 28, 2007

Per G.S. SINGHVI, CJ

This appeal by Smt. R. Kusuma Kumari is directed against order dated 23.10.2006 passed by the learned Single Judge in Writ Petition No.10272 of 2006 and W.P.M.P.No.25654 of 2006, whereby the writ petition filed by respondent Nos. 1 to 3 was disposed of in terms of memorandum of compromise dated 26.09.2006.

Smt. Chaya Devi, learned counsel for the appellant invited our attention to voluminous record filed in the form of a separate paper book to show that the memorandum of compromise which has been made part of the order under challenge was an end-product of fraud and misrepresentation and submitted that disposal of the writ petition by the learned Single Judge in terms of the memorandum of compromise has seriously jeopardized her client's right in relation to

the property in question.

We have considered the submission of the learned counsel. In our opinion, instead of filing appeal under Clause 15 of the Letters Patent, the appellant should have filed an application under Article 226 of the Constitution of India read with Order XLVII Rule 1 of the Code of Civil Procedure for review of the order under challenge. She could seek intervention of the Division Bench only if the learned Single Judge would have declined to entertain the review petition.

With the above observation, the appeal is dismissed. However, liberty is given to the appellant to seek review of the order under challenge.

Needless to say that if the review petition is not entertained or is dismissed by the learned Single Judge, then the appellant shall be free to avail remedy by filing appeal under Clause 15 of the Letters Patent.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

September 28, 2007
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